

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:12cr264
	§	
LISA MICHELLE DUKE (5)	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on August 26, 2014, to determine whether Defendant violated her supervised release. Defendant was represented by Robert Arrambide. The Government was represented by Ernest Gonzalez.

On April 22, 2014, Defendant was sentenced by the Honorable Thad Heartfield, United States District Judge, to a sentence of 16.5 months imprisonment followed by a five-year term of supervised release for the offense of conspiracy to possess with intent to distribute 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine or 50 grams or more of methamphetamine (actual). Defendant began her term of supervision on May 9, 2014.

On July 11, 2014, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision (the "Petition") (Dkt. 217). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall refrain from any unlawful use of a controlled substance; (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related

to any controlled substances, except as prescribed by a physician; (3) Defendant shall participate in a program of testing and treatment for alcohol and drug abuse, under the guidance and direction of the U.S. Probation Office, until such time as Defendant is released from the program by the probation officer. Defendant shall pay any cost associated with treatment and testing; and (4) Defendant shall cooperate in the collection of DNA as directed by the probation officer; and (5) Defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month.

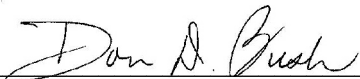
The Petition alleges that Defendant committed the following violations: (1) On May 27 and June 3, 2014, Defendant submitted urine specimens which tested positive for methamphetamine. Defendant admitted to said use on May 27, 2014 and lab results from Alere Toxicology Services confirmed the use on June 3, 2014; (2) The urine specimen submitted on June 3, 2014 was diluted; (3) Defendant failed to submit urine specimens for random drug testing at Pillar Counseling in Plano, Texas, on June 7, 10, 18, 21, 24, 28 and July 1, 2014. Additionally, Defendant failed to attend substance abuse counseling sessions on June 6 and 10, 2014, at Pillar Counseling. Defendant was unsuccessfully discharged from substance abuse counseling on June 20, 2014 for nonattendance; (4) Defendant failed to submit to DNA testing on June 9, 2014, at the U.S. Probation Office as instructed; and (5) Defendant failed to submit a monthly report for the month of June 2014. Additionally, she failed to report to the U.S. Probation Office as instructed on July 10, 2014.

At the hearing, Defendant entered a plea of true to the alleged violations. Defendant waived her right to allocute before the district judge and her right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of her supervised release and that her supervised release should be revoked.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the August 26, 2014 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of fourteen (14) months, with five (5) years supervised release to follow. The Court further recommends that Defendant's term of imprisonment be carried out in FCI Florida, if appropriate.

SIGNED this 28th day of August, 2014.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE